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N.J. BOARD OF DENTISTRY
ON 3-26-08 cmv

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY

IN THE MATTER OF THE SUSPENSION
OR REVOCATION OF THE LICENSE OF

JOHN KALLIS, D.M.D.

License No. 22DI015447200

TO PRACTICE DENTISTRY
IN THE STATE OF NEW JERSEY

Administrative Action

**ORDER STAYING
TEMPORARY SUSPENSION
OF LICENSE AND IMPOSING
RESTRICTIONS**

On March 19, 2008, the New Jersey State Board of Dentistry held a hearing on the application of the Attorney General to temporarily suspend the license of John Kallis, D.M.D., to practice dentistry in this State pursuant to N.J.S.A. 45:1-22. After consideration of the evidence adduced at the hearing, the Board voted to suspend Dr. Kallis's license pending disposition of the charges in the Verified Complaint at a plenary hearing. At the time the Board announced its decision, and aware of testimony that Dr. Kallis had 34 patients scheduled for the following day (March 20, 2008), the Board stated that Dr. Kallis could continue to practice for two days to accommodate those patients, that is until 6:00 pm on March 21, 2008, but that no prescription for controlled dangerous substances could be written without another licensed dentist co-signing the prescription and signing the patient's chart to indicate that he or she had reviewed the treatment and that the prescription was appropriate.

On March 20, 2008, counsel for respondent made an application to the Appellate Division of the Superior Court seeking review of the Board's order. The Honorable Amy Piro Chambers, J.A.D., advised counsel to submit additional materials, including a motion for leave to appeal, the transcripts of the hearing, legal arguments and the Board's order. Counsel for respondent was advised that the Appellate Division would consider the matter on Friday, March 28, 2008.

Respondent's counsel then sought a stay of the Board's order of temporary suspension pending review by the appellate court. He argued that patients were scheduled to be seen and a stay for one week was appropriate. The Attorney General objected to the application. As Board President, acting pending a Board meeting and subject to ratification by the full Board of any action taken, I considered the request on Thursday, March 20, 2008.

The Board has found that Dr. Kallis's continued practice constitutes an imminent danger to the public. He has exercised grossly deficient judgment in his prescribing practices and has failed, in the Board's view, to consider the impact of his conduct on public and patient safety. Without minimizing the Board's findings as set forth in its order, I have attempted to balance the interests of the patients who seek post operative care during this week and Dr. Kallis's right of review of this Board's action. Subject to ratification of this action by the full Board, and with considerable trepidation, I have determined that it is appropriate to permit Dr. Kallis to practice with substantial limitations and restrictions on his practice until the Appellate Division has issued its decision on respondent's application for emergent relief and the Board has had an opportunity to review this order. These restrictions will serve to severely limit or

eliminate respondent's access to any controlled dangerous substances. With the restrictions set forth in this order, and for the short time Dr. Kallis will be permitted to practice, I find the limited procedures and examinations that may be accomplished by Dr. Kallis are not inimical to the public's health, safety, and welfare. Counsel for the parties were advised of this determination by letter dated March 20, 2008.

THEREFORE, IT IS ON THIS ^{25th} DAY OF MARCH, 2008,

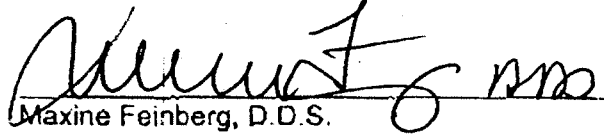
ORDERED:

1. These restrictions shall take effect on March 21, 2008.
2. The general anesthesia permit held by John Kallis, D.M.D., is suspended. Dr. Kallis shall not administer general anesthesia, parenteral conscious sedation, or enteral sedation to any person.
3. A licensed New Jersey dentist must be on the premises at all times when Dr. Kallis is present and treating patients.
4. Dr. Kallis shall not prescribe, dispense, or administer any controlled dangerous substances. Should use of a controlled dangerous substance be required, a licensed New Jersey dentist shall prescribe, dispense or administer the controlled dangerous substance and co-sign the chart indicating that he or she has reviewed the treatment rendered and the need for the medication.
5. Dr. Kallis may not see or treat any new patients.
6. Any office in which Dr. Kallis is treating patients shall account for all controlled dangerous substances present in the office and make the CDS log available to Board representatives for inspection.
7. Dr. Kallis shall cause a log to be kept of all patients seen during the

stay of the Board's order and all charts shall be readily available for inspection by a representative of the Board on demand

8. Any violation of this order shall subject Dr. Kallis to such penalties as permitted by law, including, but not limited to suspension or revocation of license, civil penalties, and costs.

NEW JERSEY STATE BOARD OF DENTISTRY


Maxine Feinberg, D.D.S.
President

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Administrative Action

ORDER OF
TEMPORARY SUSPENSION
OF LICENSE

On March 5, 2008, the State Board of Dentistry issued an Order to Show Cause returnable March 19, 2008, based on the allegations of a Verified Complaint filed by the Attorney General. In the Verified Complaint, the Attorney General (by David Puteska, Deputy Attorney General) alleged that John Kallis, D.M.D. ("Dr. Kallis" or "respondent"), had been arrested on May 17, 2007, in Fort Lee, New Jersey and charged with possession of a controlled dangerous substance (CDS) with intent to distribute, and conspiracy to obtain CDS by misrepresentation, fraud, forgery, deception or subterfuge.

The Verified Complaint further alleged that respondent had issued prescriptions for CDS to W.S. and persons real and/or fictitious, in a manner that violated the law and regulations administered by the New Jersey State Board of Dentistry. The Attorney General asserted Dr. Kallis's actions palpably demonstrated a clear and immediate danger to the public health, safety, and welfare, and sought the immediate, temporary suspension of Dr. Kallis's

license and the imposition of other relief after a plenary hearing.

On March 13, 2008, respondent, through counsel Kallison, McBride, Jackson & Murphy (by John Zen Jackson, Esq., and Robert Hille, Esq.), submitted an application for a stay of the proceedings, citing the pending criminal proceedings. Respondent argued that it was not appropriate for the Board to consider the Attorney General's application as respondent, by asserting his privilege against self-incrimination, would be unable to testify at the administrative hearing. Dr. Kallis's counsel further argued that the Attorney General could not demonstrate a clear and imminent danger as several months had passed since Dr. Kallis's arrest. Pending the full Board's consideration of that stay application, the president of the Board issued an Order on March 17, 2008, denying the stay. That Order, noted that the Board had a "solemn and serious obligation" to consider the Attorney General's application to determine whether the Board needed to take action. Respondent filed an emergent application seeking to overturn that determination in the Appellate Division. The Appellate Division, by order dated March 17, 2008, denied that relief.

Dr. Kallis filed an answer to the Verified Complaint on March 17, 2008. In his answer, respondent admitted that he is a licensed dentist and that he had been arrested; he averred that he had insufficient knowledge or information regarding certain allegations pertaining to the conduct of W.S.,¹ and based on advice of counsel, he refused to respond to other allegations citing to his privilege against self-incrimination as found in the Fifth Amendment to the United States Constitution and as provided in New Jersey common law.

¹ Because persons involved in this matter are asserted to have received dental treatment, the Board will refer to such individuals by initials in this order to provide confidentiality regarding the identity of patients.

The Board heard the matter on March 19, 2008, at its regularly scheduled meeting. Prior to the hearing, counsel for respondent asked for and was granted oral argument on the application for a stay. Following consideration of oral arguments of counsel and papers submitted, the Board declined to enter a stay, noting that it had an obligation to assess the proofs to be presented to determine whether the Attorney General could demonstrate Dr. Kallis's actions met the statutory threshold to impose the relief requested.

Dr. Kallis holds a license to practice dentistry issued by the Board as well as a specialty permit in oral and maxillofacial surgery. He also holds a general anesthesia permit, which enables him to provide general anesthesia, parenteral conscious sedation, and enteral sedation in his office. He practices at three locations in New Jersey: Palisades Oral Surgery, Fort Lee; Hudson Facial Trauma, Guttenberg; and Ridgewood Dental Associates, Ridgewood, New Jersey. Other dentists practice at each location.

The Attorney General presented the case through submission of documents², including transcripts of two interviews of W.S. by law enforcement representatives in May 2007 (AG 2 and AG 3), documents to show that Dr. Kallis wrote at least 130 prescriptions for nearly 5000 units of CDS over the two year period between April 2005 and May 2007 in the name of W.S. and six other individuals (AG 4 through AG 19), and copies of patient records subpoenaed from Dr. Kallis's office (AG 20 (subpoena) and AG21 and AG22 (patient records)). The evidence, according to the Attorney General, shows that Dr. Kallis had a personal relationship with W.S. and that this relationship

² "AG" refers to exhibits entered in to evidence on behalf of the Attorney General; "R" refers to exhibits entered into evidence on behalf of respondent.

resulted in Dr. Kallis providing W.S. with prescription medications without a valid dental purpose, without creating or maintaining a patient record, and in some instances, by using names of other individuals and using another licensee's prescription blanks.

The nature of the relationship between Dr. Kallis and W.S. is disputed by the parties. In materials proffered by the Attorney General, are two statements given by W.S.; one on May 16, 2007, given to the Paramus Police and an agent from the federal Drug Enforcement Agency following W.S.'s arrest on drug possession and other charges (AG 2 (attached to Puteska Certification as Exhibit 3)), and the second on May 17, 2007, given to the Fort Lee Police Department (AG3 (attached to Puteksa Certification Exhibit 4)). In those interviews, W.S. stated that Dr. Kallis had written multiple CDS prescriptions for him, estimated to be over 200. W.S. further stated that Dr. Kallis wrote prescriptions for him using the names of his wife, Z.S. (also known as A.S.); his father, B.S., his mother, M.S., and in the names of I.K., Y.A., and N.K., all asserted by W.S. to be fictitious names. W.S. told his interviewers that Dr. Kallis had advised him to fill the prescriptions at different pharmacies in order to avoid Dr. Kallis's being "flagged" for writing multiple prescriptions. When the police questioned his possession of a bottle of 500 Percocet, a Schedule II narcotic, W.S. said Dr. Kallis gave him the bottle so Dr. Kallis would not have to write so many prescriptions. W.S. also stated Dr. Kallis used prescription blanks bearing the name of John Petkanas, D.D.S., to assist in avoiding detection. W.S. further alleged Dr. Kallis had given him two vials of a "drug cocktail" containing Versed and Ketamine, in the event W.S. needed it in connection with business dealings overseas.

W.S. agreed to cooperate with the police and the Federal Drug Enforcement Agency. On May 17, 2007, while wearing a recording device, W.S. went to Dr. Kallis' office

and asked for a prescription for pain medication. Dr. Kallis, without any examination and without hearing anything from W.S. regarding pain symptoms, gave W.S. two prescriptions for 30 Percocet 10/325mg. - one in W.S.'s name and the other in the name of N.K., who according to W.S., was a fictitious person. Following that transaction, Dr. Kallis was arrested and charged by two criminal complaints with possession with intent to distribute and with 109 counts of conspiracy to obtain CDS by misrepresentation, fraud, forgery, deception or subterfuge.³

As part of the investigation following Dr. Kallis's arrest, the Board issued a subpoena in August 1, 2007 for all patient records for W.S., Z.S., B.S., M.S., I.K., Y.A., and N.K. In response, Dr. Kallis through counsel, provided records for W.S. and Z.S. While frequently not legible, the patient records show that Dr. Kallis treated W.S. for not fewer than three motor vehicle accidents between 1991 and 1999. The most recent treatment was for placement of implants in late 2006 or early 2007. Dr. Kallis treated Z.S. following a motor vehicle accident in the nineties. Significantly, few if any of the 73 prescriptions for W.S. and none of the seven written in the name of Z.S., appear in the patient records. More significantly, however, no patient records have been produced for I.K., B.S., M.S., Y.A. and N.K. Copies of the prescriptions giving rise to the allegations of the Verified Complaint and a summary reflecting the dates, dosages, and number dispensed were accepted into evidence without objection, as follows:

³ As of March 19, 2008, no indictment has been returned and counsel were unable to state whether the matter against Dr. Kallis had yet been presented to a grand jury.

- AG4 73 prescriptions in the name of W.S. on Dr. Kallis's prescription pad.
- AG5 Summary of prescriptions in AG4.
- AG6 7 prescriptions in name of A.S. (also known as Z.S.; another name for W.S.'s wife) on Dr. Kallis's prescriptions pad or documents reflecting a prescription that had been telephoned in to a pharmacy.
- AG7 Summary of prescriptions in AG6.
- AG8 22 prescriptions in name of B.S. (W.S.'s father) on Dr. Kallis's prescription pad or documents reflecting a prescription that had been telephoned into a pharmacy.
- AG9 Summary of prescriptions in AG8.
- AG10 14 prescriptions in name of I.K. (alleged by W.S. to be a fictitious name) on Dr. Kallis's prescription pad or documents reflecting a prescription that had been telephoned into a pharmacy.
- AG11 Summary of prescription in AG10.
- AG12 4 prescriptions in name of M.S. (W.S.'s mother) on Dr. Kallis's prescription pad.
- AG13 Summary of prescriptions in AG12.
- AG14 3 prescriptions in name of Y.A. (alleged by W.S. to be a fictitious name) on Dr. Kallis's prescription pad.
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- AG15 Summary of prescriptions in AG14.
- AG16 2 prescriptions dated May 17, 2007, on Dr. Kallis's prescription pad, one in name of W.S. and one in name of N.K. (alleged by W.S. to be fictitious name), given to W.S. while W.S. was wearing recording device.
- AG17 Summary of prescriptions AG16.
- AG18 7 prescriptions written on prescription pad of John Petkanas, D.D.S., in names of W.S., A.S., and I.K.

AG19 Summary of prescriptions in AG18.

Following entry of the documents into evidence, the Attorney General rested.

Respondent's counsel, Mr. Hille,⁴ introduced the following evidence without objection:

R3 Certification of Vincent Carrao, D.D.S., M.D., Dr. Kallis's partner in the Fort Lee practice, dated March 17, 2008, with attachments;

R4 Dr. Carrao's curriculum vitae;

R 5, Certification of Dr. Carrao, dated March 13, 2008, with attachments;

R7 Certification of Practice Kallis, respondent's wife and a licensed dentist, with attachments;

R8 Certification of Maria Caputo, employee;

R9 Certification of Sirina J. Allen, employee;

R-10 Certification of Valerie Corwin, employee;

R11 Certification of Sandra Simonelli, employee;

R12 Certification of Donna Russo, employee;

R14. Certifications of Michael Struk, a private investigator;

R15 Certification of counsel Robert Hille, appending a transcript of a hearing on April 11, 2007 before the Honorable John Langan, Jr., J.S.C., Superior Court, Chancery Division, Family Part, Bergen County, on a domestic violence complaint between W.S. and Z.S.;

R16 Letter from Louis Baxter, M.D., Executive Medical Director, Professional Assistance Program.

⁴ In addition to Mr. Hille, James Patuto, Esq., who is representing Dr. Kallis in the criminal proceedings, attended the hearing.

The Board also accepted into evidence the certification of Richard Orsini, a handwriting expert, over the objection of the Attorney General. Mr. Orsini's certification questions some aspects of the handwriting on the prescriptions, but Mr. Orsini notes he can make no definitive assessment in the absence of studying the original prescriptions. The Board noted that it would give the certification appropriate weight in light of its limited utility.

Dr. Kallis, who was present for the proceedings, consistent with his counsel's earlier statements in connection with the application for a stay, did not testify. Dr. Vincent Carrao testified that he has known respondent for 15 years and has worked with him both as an associate and since 2004 as a partner. Dr. Carrao described Dr. Kallis as a skilled surgeon, who had over 6,600 patient visits in 2007. Dr. Carrao stated that he had reviewed the patient records for W.S.⁵ and that given W.S.'s physical condition, the amount of pain medication prescribed was a discretionary judgment. He offered that the quantity was not outside appropriate doses for chronic pain patients. He noted that Dr. Kallis had not authorized refills of the prescriptions. Upon cross-examination and questioning from Board members, Dr. Carrao stated that he was not certified in pain management and did not have a particular expertise in pharmacology, but that he had experience with anesthesia and as an oral surgeon. Dr. Carrao was not aware that N.J.S.A. 24:21-15 precludes writing refills for a Schedule II narcotic. Dr. Carrao was also asked about prescriptions written by Dr. Kallis in the name of Z.S. based on his review of her patient record. While some conditions

⁵ Attached to Dr. Carrao's March 17, 2008 certification (R-3) were patient records for W.S. and Z.S. that were obtained from a law firm representing those patients and that had not been provided to the Board upon its initial request for patient records in August 2007.

existed in 2003 that might warrant narcotic medications, Dr. Carrao did not recall seeing any treatment records to support the medications prescribed. Dr. Carrao stated that his office had done a review of the medications present in the office and had found nothing missing, but upon further questioning acknowledged he was unaware that a licensee with a DEA number could call a wholesale pharmaceutical company and order CDS. With regard to the 500 count bottle of Percocet, Dr. Carrao repeated the explanation that W.S. took the package containing the bottle thinking it was a bleaching kit, but was constrained to acknowledge that as an oral surgery practice, he and Dr. Kallis do not provide bleaching services.⁶ Finally, with respect to the letters attached to R-5 from three practitioners, Dr. Carrao identified Kenneth Hilsen, D.D.S., as the owner of Ridgewood Dental Associates, and John Petkanas, D.D.S., as the owner of Hudson Facial Trauma, both of whom contract with Dr. Kallis for the provision of oral surgery services. He identified Joseph DiSilvio, D.M.D., as a dentist who refers patients to Dr. Kallis.

Respondent next presented Patricia Kallis, Dr. Kallis' wife of over 20 years.⁷ Mrs. Kallis is a licensed dentist holding a specialty permit in periodontics and practices at the Fort Lee location, although her practice is a separate legal entity. Mrs. Kallis testified that Dr. Kallis is an honorable man and an excellent husband and father. Appended to her certification were letters from dozens of patients and some dental practitioners attesting to Dr. Kallis' attributes. Mrs. Kallis stated that Dr. Kallis and W.S. had become friendly over

⁶ Dr. Carrao noted that Jorge M. Cervantes Grundy, D.D.S., a prosthodontist who shares office space, provides bleaching services.

⁷ Patricia Kallis, a dentist, is licensed as Patricia Marrone. As her certification was submitted under the name of Patricia Kallis, and to avoid confusion, Dr. Marrone will be referenced in this Order as Mrs. Kallis.

the years, that W.S. had visited their home, and the families had socialized on occasion. She denied any knowledge of facts underlying W.S.'s accusations to the police that Dr. Kallis was involved in a money laundering operation or was connected with organized crime.

Mrs. Kallis, in an apparent attempt to demonstrate that her husband had treated B.S. (W.S.'s father), and had not written prescriptions in B.S.'s name for W.S., testified that she was present when B.S. and Dr. Kallis met at her home. She stated that W.S. and B.S. had come to the Kallis's home to install a camera based security system. According to Mrs. Kallis, B.S. complained of pain and problems with this jaw. Dr. Kallis "took a look" and "checked" B.S.'s jaw, then issued a prescription and told B.S. to come to the office for follow-up. Mrs. Kallis did not see B.S. after that.

Mrs. Kallis was shown AG18, the seven prescriptions written for W.S. on Dr. Petkanas's prescription pad. Mrs. Kallis identified the signature on the prescriptions as her husband's signature. She offered that Dr. Petkanas was working in the Fort Lee office at the time. It was an "extremely busy practice" and the pads were all kept in the same drawer. She stated that it would be easy to pull out a pad and issue a prescription on the wrong pad, as both practitioners were named John.

When asked whether she felt W.S. was a drug user or abuser, Mrs. Kallis responded that she felt confident that she could identify a drug user and indicated that when she encountered W.S., he did not appear to be under the influence. Yet on further questioning, Mrs. Kallis testified she was not aware of the type and quantity of prescriptions that had been issued to W.S. and that when W.S. was at her home for social occasions she was "up and down serving" and that he "didn't seem under the influence." She noted

that her husband may keep prescription blanks in their house, including in the den to which W.S. had access at times. As to prescription pads in the Fort Lee office, Mrs. Kallis maintained her pads separately. She stated that Dr. Petkanas left the practice in or around the end of 2006 but did not know whether he left prescription pads behind.

The next witness presented was Michael Struk, a licensed private investigator, who had been retained after the criminal charges against Dr. Kallis were filed in May 2007. Because W.S. and his wife provided the initial information leading to the investigation of Dr. Kallis, Mr. Struk had been instructed by respondent's counsel to prepare a "pedigree" or "profile" on W.S. Mr. Struk performed a search of public records, including criminal and civil dockets,⁸ reviewed the Attorney General's exhibits: Martinez certification and attachments, (AG-1); Puteska certification, which included AG2 and AG3 transcripts of law enforcement interviews with W.S.; and watched the recorded version of these interviews as well as listening to the recorded conversation between W.S. and Dr. Kallis on May 17, 2007.⁹ Mr. Struk's certification listed a number of names that appear to have been used by W.S.; addresses at which he lived or may have had an interest in real estate; thirteen arrests (seven arrests between 1989 and 2001 and six between March and May 2007, of which three are related to the possession of CDS connected with this matter); and three convictions (1989 fourth degree felony conviction for possession of cocaine, sentenced to 3 years probation; 1989 conviction for shoplifting, assessed \$305.00; 1996

⁸ Mr. Struk testified he did not have access to the federal data base or an FBI fingerprint search.

⁹ The Attorney General did not provide a transcript of the recording stating that the poor audio quality prevented a transcription.

conviction 3rd degree felony, theft by unlawful taking of movable property; sentenced to 3 years, actual incarceration less than four months). Other charges based on arrests through 2001, were dismissed or no disposition was available. Proceedings related to the charges filed March through May 2007 remain open. In addition to the criminal history, Mr. Struk highlighted a number of civil actions that resulted in judgments against W.S. or that remain open, including a judgment against W.S. in favor of Dr. Kallis's practice. Mr. Struk offered his opinion that W.S. had "swindled" Dr. Kallis out of a sizable sum of money with regard to an investment scheme and that he preyed upon Dr. Kallis' naivete. Mr. Struk claimed that the fraud was continuing through the May 17, 2007 exchange between W.S. and Dr. Kallis in which W.S. mentioned the names of I.K. and N.A. on the audio recording. No evidence regarding any losses or the extent of a business relationship was offered by either party.

Mr. Struk also offered a time line in support of a theory of respondent's counsel as to the basis of the allegations made against Dr. Kallis. He reviewed the transcript of the domestic violence hearing on April 11, 2007, as well as two pages from an investigative report pertaining to Dr. Kallis prepared by the Enforcement Bureau of the Division of Consumer Affairs. (Those pages, R-17A and R-17B, were admitted into evidence without objection.) That scenario provides that in or about March 2007, Z.S. (W.S.'s wife) had taken the bottle of Percocet obtained by W.S. from Dr. Kallis's office and found in her garage to the police. At that time Z.S. asserted that she had been threatened by W.S. Dr. Kallis testified at the domestic violence hearing arising from those allegations on April 11, 2007, in the Superior Court, Chancery Division, Family Part, Bergen County (portion of transcript attached to certification of Robert Hille, Esq., R15). During that

hearing, Dr. Kallis stated W.S. had taken a brown box from his office. According to Dr. Kallis, W.S. had gone into an office to retrieve a tooth whitening kit that had been ordered for him. Instead of taking the box containing the whitening kit, W.S. took a box containing a 500 count bottle of Percocet. Dr. Kallis testified that 2 or 3 days later it was noted that W.S. had taken the narcotics. Dr. Kallis further testified that the office made telephone calls and on March 12, 2007 sent a letter to W.S. telling him the office had called on March 3, 2007, and asking him to return the drugs. (Transcript p.6). Ultimately, Dr. Kallis retrieved the bottle from the Paramus police.

Mr. Struk stated that the investigation into Dr. Kallis began on or about the date Dr. Kallis testified on behalf of W.S. at the hearing in the Family Part. He suggested - as argued by respondent's counsel - that Z.S. made the allegations because she was angry that Dr. Kallis had testified on behalf of her husband. Mr. Struk acknowledged that from a law enforcement perspective, given the allegations a comprehensive investigation was appropriate.

What is also notable from the transcript of the domestic violence hearing is Dr. Kallis's testimony that he had not treated Z.S. in the three to four years before the hearing (T9; T35). He testified, however, that in 2006 he may have prescribed for her:

Q: Have you prescribed medication of [Z.S.] during 2006?

[objection and discussion on objection omitted]

A. I may have. As a previous patient, if - again, knowing that - again in [Z.S.] case, she was recommended to have surgery, knowing her injuries, and she has called the office or -

Q: Did she call the office?

A. I don't know. And if they had, they've asked me to write a prescription, I would have done that.

Q: You would have just done that.

A. Knowing her.
[R15: T34-T35].

A review of AG6 and AG7 reveals that seven prescriptions were issued in the name A.S. (a/k/a Z.S.), six of which were for Percocet, a Schedule II narcotic, between June 2005 and November 2006; a period when Dr. Kallis testified he was not treating Z.S.

As a final witness, respondent presented Dr. Joseph DiSilvio. Dr. DiSilvio, who refers patients to Dr. Kallis, stated that Dr. Kallis' continued practice was important to his patients. He offered a photograph of a patient, three radiographs, an implant device, and dentition models (marked R18 through R23 respectively) in support of his claim that patients needed continued care from Dr. Kallis. The materials were accepted into evidence without objection.

In rebuttal, the Attorney General, without objection, moved into evidence AG23, a certification from Mary Peterson, Supervising Investigator with the Enforcement Bureau, stating that based on her review of the records of the State Office of Drug Control, no report of a lost, stolen or altered prescription blank had been made by Dr. Kallis.

After conclusion of the testimony, counsel made closing arguments and the Board moved to executive session to deliberate.

DISCUSSION

In assessing whether Dr. Kallis's practice palpably demonstrates a clear and imminent danger to the public health, safety, and welfare, the Board has fully considered the evidence introduced at the hearing, including documentary evidence of

approximately 130 prescriptions issued by or under Dr. Kallis's name for W.S., Z.S., B.S., M.S., I.K., Y.A., and N.K., during the period April 2005 through May 2007, totaling over 4300 dosage units of controlled dangerous substances, the majority of which were for Schedule II drugs.

The Board has listened carefully to the testimony of Dr. Carrao, Mrs. Kallis, and Mr. Struk, and scrutinized the exhibits submitted, including the transcripts of interviews of W.S. by law enforcement personnel on May 16, 2007 (AG2) and May 17, 2007 (AG3), the transcript of testimony from the April 11, 2007 domestic violence hearing, at which Dr. Kallis, Z.S. and W.S. testified, (R-15) and the information provided by Mr. Struk based on his background investigation of W.S. (R14). Finally, the Board considered the arguments of counsel, as presented in their briefs and as orally stated at the hearing.

That review compels the Board to conclude that the Attorney General has met the statutory burden that Dr. Kallis's continued practice palpably demonstrates a clear and imminent danger to the public. The Board, as detailed more fully below, accepts the Attorney General's position that through his actions, Dr. Kallis has displayed such deficient judgment that he cannot be trusted to continue practicing. Despite the issues raised by respondent as to the credibility of W.S., the evidence presented overwhelmingly demonstrates that Dr. Kallis has failed to adhere to acceptable standards of practice in this State, and in doing so, has placed W.S. and/or others at serious risk of harm, if not causing actual harm.

In May 2007, Dr. Kallis was arrested and charged in two different complaints, with 1) dispensing or possessing one ounce or more of Oxycodone with intent to distribute, (a 2nd degree crime); 132 counts conspiracy to obtain CDS by

misrepresentation, fraud, forgery, deception, or subterfuge, a third degree crime; and 3) providing false information to a law enforcement official (a 4th degree crime). (Martinez certification AG-1, Ex. 5; Verified Complaint ¶14). These charges stemmed from W.S.'s statements in May 2007 to the police and the Drug Enforcement Agency representative that Dr. Kallis had issued hundreds of prescriptions to W.S. in the name of W.S. and other individuals; that Dr. Kallis had suggested that W.S. fill the prescriptions at different pharmacies to avoid detection; that Dr. Kallis had used another dentist's name and prescription pad (Dr. Petkanas) on some prescriptions; and that Dr. Kallis had provided W.S. with two vials of liquid containing Demerol, (Schedule II) Versed (Schedule IV) and Ketamine, (Schedule III) along with syringes. (Verified Complaint ¶11). The charges also reflected Dr. Kallis's actions on May 17, 2007, when he provided W.S. with two prescriptions for 30 Percocet, dose 10/325mg. Dr. Kallis wrote one prescription in W.S.'s name and the second in the name of N.K., with no examination of W.S., no complaint of pain by W.S., and no indication that N.K. was a patient or indeed even existed. That exchange was recorded by W.S. as part of the criminal investigation. In addition to the written prescriptions, and the explanation for one prescription for B.S. offered by Mrs. Kallis, the Board also considered the circumstances surrounding W.S.'s possession of a bottle of 500 Percocet (Schedule II) that W.S. obtained from Dr. Kallis's office and Dr. Kallis's attempts to retrieve it.

Any attempt to determine whether there was a valid, initially appropriate rationale for all or indeed any of these prescriptions was hampered by the appallingly poor records maintained by Dr. Kallis. At the outset of the investigation, the Board subpoenaed Dr. Kallis's records for each of the individuals for whom he had written

prescriptions. Dr. Kallis produced some records for W.S. and for Z.S., but had no records for B.S., I.K., M.S. Y.A., or N.K. And, even as supplemented in exhibits provided at the hearing, the patient records for W.S. and Z.S. do not reflect that prescriptions were issued or contain any information to support the need for prescribing powerful narcotics. Between April 29, 2005 and May 15, 2007. Dr. Kallis issued 2,790 dosage units to W.S. Dr. Carrao's certification (R3), which reconstructs treatment provided to W.S., does not give any rationale for these drugs. Moreover, in Dr. Kallis's own testimony at the April 11, 2007, domestic violence hearing, he acknowledged that Z.S. was not in active treatment since 2003-2004 and that he had not seen her professionally since then, yet seven prescriptions for controlled dangerous substances totaling 249 dosage units were issued in her name between June 27, 2005 and November 4, 2006. It is noteworthy that Z.S. had alleged at that time that Dr. Kallis was issuing prescriptions for W.S. in her name. For purposes of this application, it is irrelevant whether Dr. Kallis was issuing prescriptions to Z.S. at her request without any examination to determine if Z.S. had a dental or medical condition to warrant narcotics, or whether he issued those seven prescriptions to W.S. in Z.S.'s name; both scenarios demonstrate that Dr. Kallis was grossly deficient in exercising judgment related to the issuance of prescriptions for controlled dangerous substances.

Similarly, whether I.K., N.K., Y.A., and M.S. and B.S. were patients or were names used by Dr. Kallis to issue additional prescriptions for W.S. to avoid being flagged by a pharmacist, the Board finds again that Dr. Kallis has displayed judgment so flawed as to render his continued practice an imminent danger to public safety. As noted above, Dr. Kallis has produced no patient records for those five individuals.

Prescriptions entered into evidence show that twenty-four (24) prescriptions were issued in the name of B.S., totaling 790 dosage units of CDS, 760 of which were Schedule II drugs; fourteen (14) prescriptions were issued in the name of I.K., totaling 500 dosage units, 440 of which were Schedule II drugs; four (4) prescriptions were issued in the name of M.S. (W.S.'s mother), totaling 120 dosage units, all Schedule II; three (3) prescriptions were issued in the name of Y.A.; totaling 100 dosage units, all schedule II; and one (1) prescription, issued to N.K. on May 17, 2007, for 30 dosage units of a Schedule II drug, which prescription was given directly to W.S. when he had gone to see Dr. Kallis pursuant to the undercover investigation. Whether these prescriptions were intended for W.S. himself or for some unknown end-user, Dr. Kallis has failed to recognize - or has deliberately ignored - the harm that these powerful narcotics pose to an individual patient or, if they enter the stream of commerce, to the public. If through these proceedings, it is learned that these five individuals were in fact patients of Dr. Kallis, then his failure to conduct a proper dental examination, take a medical history, record presenting conditions and treatment progress, discuss options for further treatment or make referrals, and to monitor the patient's use of narcotics, so deviates from the standard of care in this State, that he has demonstrated he is incapable of practicing safely.

Moreover, the Board's concern regarding Dr. Kallis's prescribing is amplified by the circumstances surrounding W.S.'s possession of a 500 count bottle of Percocet. Even accepting respondent's story that W.S. took the narcotics by accident when he mistook a brown box in his office for a different brown box containing a tooth whitening kit (see R-15 transcript pp 5-6), the Board is extremely troubled by Dr. Kallis's

response to that incident. Respondent, in the domestic violence hearing, testified that the missing bottle was not noticed for "2 or 3 days". Upon that discovery, he stated phone calls were made, and in a letter to W.S. dated March 12, 2007, respondent stated that the office attempted to contact W.S. by telephone on March 3, 2007, and urged him to return the bottle. This lackadaisical response is wholly inadequate and demonstrates that Dr. Kallis lacks any real appreciation of the harm 500 Percocet could cause, either to W.S. or if they were to enter the stream of commerce, the harm to scores if not hundreds of individuals.

As noted in the Board's motion to suspend Dr. Kallis's license on March 19, 2007, this pattern of poor judgment has manifested itself in poor practice. If the Board accepts Mrs. Kallis's testimony that Dr. Kallis's signature on the prescription blanks of Dr. Petkanas is the result of a mistake in a busy practice (and there are six prescriptions where Dr. Petkanas's pad was used by Dr. Kallis to write for W.S. (four prescriptions), A.S. (a/k/a Z.S.) (one prescription), and I.K. (one prescription), on five different dates, (AG18 and AG19)), this lax practice regarding the most addictive and dangerous class of prescription drugs, is profoundly poor practice. Even if the Board accepts Mrs. Kallis's testimony that Dr. Kallis met B.S. at their home and on B.S.'s complaint of pain, Dr. Kallis performed a cursory examination and issued a prescription for 40 Oxycodone/PAP 10-325 and advised B.S. to come to the office, the Board must question Dr. Kallis's judgment and practice. Without the benefit of a complete examination, an appropriate diagnostic work-up, and apparently without a medical history, the issuance of 40 Percocet is astounding. That an additional 23 prescriptions for CDS for B.S. followed over the next twelve months, with no record to support the

treatment appears to be nothing less than gross negligence.

The Board, looking at the prescriptions, the missing 500 count bottle of Percocet, and the lack of patient records, must conclude that Dr. Kallis's conduct is inconsistent with safe dental practice. At best it is deeply flawed professional judgment; it appears at this juncture, on this record, to be gross negligence or fraud. The Board need not reach a determination at this time that Dr. Kallis engaged in fraud because on its face, the evidence has palpably demonstrated that his continued practice presents a clear and imminent danger to the public. Counsel's proffer that Dr. Kallis has remediated any deficiencies that might have existed through continuing education or alterations in practice management do not alter this Board's fundamental conclusions. The license of Dr. Kallis to practice dentistry in this State shall be temporary suspended pending resolution of the allegations of the Verified Complaint at a plenary hearing.

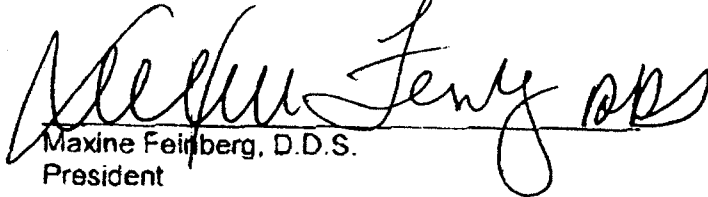
THEREFORE, IT IS ON THIS ^{1st} 25 DAY OF MARCH, 2008

ORDERED:

1. The license of John Kallis, D.M.D., to practice dentistry in this State shall be and is temporarily suspended pending the plenary hearing on the allegations of the Verified Complaint. The suspension shall take effect on 6:00 pm on March 21, 2008.
2. Between the time the Board's decision was orally announced on March 19, 2008 and the effective time of the suspension, Dr. Kallis may only prescribe controlled dangerous substances if that prescription is co-signed by another licensed dentist who shall co-sign the patient chart indicating that he or she has reviewed the treatment rendered and the need for the issuance of that prescription.
3. Dr. Kallis shall surrender his license to a representative of the Board of

Dentistry and shall comply with the attached Directives regarding suspended and revoked dentists.

NEW JERSEY STATE BOARD OF DENTISTRY


Maxine Feinberg, D.D.S.
President